

**REMARKS**

Claims 2-10 are pending in this application. By this Amendment, claims 2, 4 and 6 are amended. Support for the amendments to claims 2 and 6 are found, for example, on page 7, line 22 to page 8, line 13 of the original specification . Claim 4 is amended to improve its clarity. No new matter is added.

The Office Action rejects claims 2, 4, 6, 8 and 9 under 35 U.S.C. §103(a) over Hosoi et al. (Hosoi), U.S. Patent No. 5,805,268 in view of Thorburn, U.S. Patent No. 2,707,901<sup>1</sup>; rejects claims 3 and 7 under 35 U.S.C. §103(a) over Hosoi in view of Thorburn, and further in view of Ishikawa et al. (Ishikawa), U.S. Patent No. 5,640,221; and rejects claims 5 and 10 under 35 U.S.C. §103(a) over Hosoi in view of Thorburn, and further in view of Nakagawa, U.S. Patent No. 5,997,142. The rejections are respectfully traversed.

The combination of Hosoi and Thorburn fails to disclose or suggest placing a green filter in the test window for a first predetermined time and then placing an aperture in the test window for a second predetermined time while a red optotype and a green optotype are simultaneously presented to the examinee's eye, as recited in independent claims 2 and 6.

Accordingly, all pending claims are patentable.

The Office Action asserts that Hosoi discloses an optometric device that can perform a red/green (R/G) test (col. 8, line 64 to col. 9, line 6) which inherently includes presenting a green filter and an aperture as part of the various optical elements. However, the Office Action fails to provide a basis in fact or technical reasoning to support its allegation that the allegedly inherent characteristic necessarily follows from the teachings of Hosoi (see MPEP §2112 IV). There can be no speculation or only possibilities involved in a holding of inherency; what is alleged to be inherent must necessarily occur (MPEP §2112 IV).

---

<sup>1</sup> The rejection of claim 4 is improper because claim 4 depends from claim 3, which is not included in this rejection.

There is no evidence or suggestion that the R/G test disclosed by Hosoi is anything other than a conventional R/G test. In the traditional R/G test, a red optotype (black target on a red background) and a green optotype (black target on a green background) are simultaneously presented to an examinee's eye. An optical element for correcting a refractive power of the examinee's eye is then disposed in a test window of an optical lens chamber unit. While the red optotype and the green optotype are simultaneously presented through the optical element, the examinee compares which optotype is seen more clearly with one or both eyes. The traditional R/G test relies on the fact that, in a normal eye, red and green light are respectively focused in the back and front of the retina at nearly equal distances because of the color aberration of the lens of the eye. For instance, if an examinee's eye sees one optotype with clearer contrast than the other optotype, the eye has been corrected with the optical element to focus the clearer optotype on a position closer to the retina than the other optotype, representing over correction or low correction. This R/G test simultaneously presents the red optotype and the green optotype to the examinee's eye to have the examinee subjectively compare the contrast between the optotypes. Accordingly, in the conventional R/G test, no green filter or red filter is disposed in the test window of the lens chamber unit. Thus, the Office Action's allegation about inherency is wrong.

The claimed combination of features can, for example, restrain automatic accommodation of the examinee's eye which is likely to occur in a conventional R/G test. The claimed apparatus includes a green filter in each rotary disk of both right and left lens chamber units to make the red target invisible to the examinee's eye so that the examinee sees only the green optotype for a predetermined time. When the green filter is placed in the test window while the red optotype and the green optotype are simultaneously presented to the examinee's eye, as recited in claims 2 and 6, only the green optotype is visible. Because the green light is focused in front of the retina, as discussed above, the eye cannot focus the green

light on the retina even when the eye attempts to accommodate to the subjective refractive power measurement apparatus. On the other hand, the red light, which is focused on the back of the retina, can be focused on the back of the retina by the accommodation of the eye. Thus, it is only possible to restrain the automatic accommodation of the examinee's eye when the green optotype is presented to the eye in advance of conducting the R/G test. The claimed combination of features restrains such automatic accommodation of the examinee's eye. The claimed combination is not disclosed or suggested by Hosoi.

Thorburn fails to overcome the deficiencies of Hosoi. Thus, claims 2 and 6 are patentable over the combination of Hosoi and Thorburn.

Ishikawa and Nakagawa fail to overcome the deficiencies of Hosoi and Thorburn with respect to claims 2 and 6. Because claims 3-5 and 7-10 incorporate the features of claims 2 and 6, respectively, these claims also are patentable. Thus, it is respectfully requested that the rejections be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 2-10 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place

this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

James A. Oliff  
Registration No. 27,075

David R. Kemeny  
Registration No. 57,241

JAO:DRK/kxs

Date: October 31, 2006

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

**DEPOSIT ACCOUNT USE  
AUTHORIZATION**  
Please grant any extension  
necessary for entry;  
Charge any fee due to our  
Deposit Account No. 15-0461